

**Caplin & Drysdale**  
ATTORNEYS

Caplin & Drysdale, Chartered  
One Thomas Circle, NW, Suite 1100  
Washington, DC 20005  
202-882-6000 202-429-3301 Fax  
www.caplindrysdale.com

August 4, 2011

**VIA ELECTRONIC MAIL**

**Anthony Herman**  
General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, DC 20463

Re: MURs 6484 and 6482—Response of The Commonwealth PACs (Shauna Polk, Treasurer)

Dear Mr. Herman:

The Commonwealth PACs<sup>1</sup> have received two complaints, for MURs 6484 and 6482 that are virtually identical to the complaint in MUR 6470. By this letter, the PACs therefore request that the Commission reference their MUR 6470 response in addressing MURs 6484 and 6482.

Please notify me if you have any questions.

Sincerely,



Matthew T. Sanderson  
Caplin & Drysdale, Chartered

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FEDERAL ELECTION  
COMMISSION

<sup>1</sup> The Commonwealth PAC-Alabama, The Commonwealth PAC-Iowa, The Commonwealth PAC-Michigan, The Commonwealth-New Hampshire, and The Commonwealth PAC-South Carolina.  
DOC# 507974v.1 8/4/2011

RECEIVED  
FEDERAL ELECTION  
COMMISSION

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OFFICE OF GENERAL  
COUNSEL

Caplin & Drysdale  
ATTORNEYS

Caplin & Drysdale, Chartered  
One Thomas Circle, NW, Suite 1100  
Washington, DC 20005  
202-862-5000 202-429-3301 Fax  
www.caplindrysdale.com

June 27, 2011

**VIA ELECTRONIC AND CERTIFIED MAIL**

Anthony Herman  
General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, DC 20463

Re: MUR 6470—Response of The Commonwealth PACs (Shauna Polk, Treasurer)

Dear Mr. Herman:

In a fruitless effort to blemish Mitt Romney's visit to New Hampshire, the state's Democratic Party ("NHDP") filed a complaint with the Commission accusing five non-federal political committees ("the PACs")<sup>1</sup> of accepting and making contributions that exceeded federal limits. NHDP spouts faulty accusations because it substitutes media speculation for actual facts and ignores key aspects of Commission rules. The PACs respond here to set the record straight: they have never spent any funds for the purpose of influencing a federal election.

**I. Statement of Facts**

The PACs are non-federal political committees organized in five different states. They have been in continual operation since April 2007.

Since 2007, the PACs have raised funds, consistent with applicable state laws. The PACs have used funds exclusively to finance non-federal political activities—contributions to state candidates and party committees, travel to state candidate political rallies and fundraising efforts, trips to state party-building events, public-relations efforts that influence state policy debates, issue research that benefits state candidates, and PAC personnel to support these activities. The PACs' receipts and disbursements for these purposes have been dutifully reported to state campaign finance regulators.

As shown on these public reports, the PACs have never contributed to a federal candidate or party committee, disbursed funds for the purpose of influencing a federal election, or otherwise supported federal-election activity. (The PACs were affiliated with the federal committee Free and Strong America PAC, but Free and Strong America PAC fully paid for all federal-election activity and paid for the federal share of common expenses through a strict allocation method.)

During much of the PACs' four-year existence, Mitt Romney has served as an honorary chairman. His involvement and popularity has lent credibility to the PACs' efforts to support

<sup>1</sup> The five non-federal PACs are: The Commonwealth PAC-Alabama, The Commonwealth PAC-Iowa, The Commonwealth PAC-Michigan, The Commonwealth-New Hampshire, and The Commonwealth PAC-South Carolina.  
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state candidates and party committees. Mr. Romney severed all ties with the PACs on or before March 31st, weeks before Mr. Romney formed his presidential exploratory committee and three months before he announced his candidacy on June 2, 2011.

The PACs continue to exist and operate. They have no plans to terminate, though in recent months they have made expenditures only for administrative purposes. As has been their practice, the PACs do not intend in the future to disburse any funds for the purpose of influencing a federal election.

**II. Argument—The PACs Did Not Accept or Make Excessive Contributions Because the PACs Never Spent Any Funds For the Purpose of Influencing a Federal Election**

NHDP incorrectly claims that the PACs violated federal law by accepting and making excessive contributions while affiliated with Mitt Romney before his presidential candidacy.<sup>2</sup> Commission regulations state that incoming receipts and outgoing disbursements can be “contributions” only if they are “for the purpose of influencing any election for federal office.”<sup>3</sup>

Consistent with their non-federal status, the PACs have never expended any funds “for the purpose of influencing any election for federal office.” The PACs gave contributions only to state candidate and party committees, which used the funds for non-federal campaigns. The PACs only defrayed travel costs associated with state candidate and committee events. They paid only the state-related share of common administrative and personnel expenses.

NHDP never attempts to refute these facts. It does not try to claim that the state candidates and party committees did not benefit from the PACs’ contributions, public-relations efforts, research support, event appearances, and fundraising.

Instead, NHDP seems to argue that the Commission should presume the PACs were the equivalent of Mr. Romney’s authorized presidential committee because Mr. Romney later became a presidential candidate.<sup>4</sup> NHDP would have the Commission disregard the PACs’ contemporaneous, express intent to support only state-level candidates and committees because of Mr. Romney’s subsequent decision to become a federal candidate. Indeed, NHDP’s favored legal standard would have required the PACs to remain silent for the past seven years because their honorary chairman might later decide to run for president. But the Commission has previously rejected NHDP’s line of thought: “leadership PACs ... cannot be assumed to be acting as authorized committees. Rather, these PACs are worthy of the same treatment as other unauthorized committees that operated without presumptions as to their status.”<sup>5</sup> In other words, the Commission has chosen not to automatically “federalize” political committees based on simple association with a potential candidate. Each committee’s particular activities must be examined to determine whether they are acting “for the purpose of influencing any election for federal office.”

<sup>2</sup> Complaint at 3-4.

<sup>3</sup> 11 C.F.R. §§ 100.52, 100.111.

<sup>4</sup> Complaint at 1.

<sup>5</sup> 68 Fed. Reg. at 67017 (Dec. 1, 2003).

NHDP also fails to list any specific statements or actions by the PACs that show their activities were "for the purpose of influencing any election for federal office." In making its case, NHDP seems to mainly rely on two ambiguous quotes by donors to the PACs.<sup>6</sup> NHDP never explains, and it is not apparent, how these quotes prove the PACs accepted and expended funds "for the purpose of influencing" Mr. Romney's election.<sup>7</sup> But even if the donors had made clear statements, donor opinions are of little import in the absence of evidence that the PACs represented that any funds would be used to support Mr. Romney's candidacy or that the PACs actually used funds for that purpose. Additionally, NHDP makes much of the fact that the PACs' funds were not all used for political contributions.<sup>8</sup> This naïve statement ignores the reality that the PACs assisted state candidates and committees through multiple methods—travel to state candidate political rallies and fundraising efforts, trips to state party-building events, public-relations efforts that influenced state policy debates, issue research, and PAC personnel to support these activities. Finally, NHDP believes the PACs' payments for collective administrative and personnel costs are suspect.<sup>9</sup> But an organization that simultaneously influences non-federal elections in multiple states is not the same as a federal political entity. And these payments were necessary for the PACs to avoid receiving in-kind contributions from their affiliated committees.

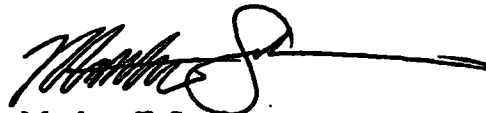
In sum, then, the PACs have only ever engaged in non-federal political activity. NHDP offers no evidence to the contrary. The PACs did not accept or make excessive contributions during their affiliation with Mitt Romney because the PACs never spent any funds "for the purpose of influencing any election for federal office."

### III. Conclusion

For all of the foregoing reasons, NHDP's complaint should be dismissed and the Commission should take no further action related to this Matter.

Respectfully Submitted,

  
Kirk L. Jowers  
Caplin & Drysdale, Chartered

  
Matthew T. Sanderson  
Caplin & Drysdale, Chartered

<sup>6</sup> Complaint at 2-3.

<sup>7</sup> One donor was indirectly quoted by a newspaper as saying "he contributed so much because he believes the country could use Romney's business acumen." Assuming this donor's statement was accurately relayed, it still does not contain any statement about Mr. Romney's federal candidacy or clearly indicate that the donor's intent was to assist Mr. Romney's federal candidacy. Another donor was quoted saying "I see everybody else who I think is running, and some of the other candidates are also, let's say, likable...[b]ut...I appreciate sitting across the table from someone who at least understand how business works, how business operates." We assume that NHDP cites this quote because of the reference to Mr. Romney "running" and note that the newspaper article containing this quotation was published after Mr. Romney had already formed his presidential exploratory committee.

<sup>8</sup> Complaint at 1-2.

<sup>9</sup> Complaint at 3.